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December 22, 2021

Via ECF Only

United States District Court
Southern District of New York
ATTN: HON. VERNON S. BRODERICK, U.S.D.J.
40 Foley Square, Courtroom 518
New York, New York 10007

RE: JI WON HONG v. NEW YORK MEAT, INC., et al.
Case No.: 21-cv-8253

JOINT LETTER IN LIEU OF INITIAL PRETRIAL CONFERENCE

Dear Judge Broderick:

As you are aware, this office represents the plaintiff, Ji Won “Justin” Hong (“Plaintiff”) in the above-referenced matter. The undersigned submits this letter jointly with the counsel for defendants, New York Meat, Inc., Han Kook Meat, Inc., NYM Prime Market, Inc., Reception House New York, Inc., and Jong Hwan No (collectively, “Defendants”), in accordance with the Court’s Order dated December 2, 2021.

1. Nature of the Action and Principal Defenses

This is an action for allegedly unpaid wages under the Fair Labor Standards Act (“FLSA”) and the New York Labor Law (“NYLL”). There is a slight complication, however, in determining the work hours and the wages paid, as Plaintiff alleges that Defendants acted as joint employers and caused Plaintiff to work at various locations and for varying hours and have changed the wage payment structure several times throughout Plaintiff’s two and a half years’ employment. Defendants deny those allegations.

More specifically, Plaintiff alleges that he was hired by the individual defendant Jong Hwan No to work for a business named “Kono Chicken,” a fried-chicken restaurant, which shares its business premises with Han Kook Jung Yook, a butchery. Plaintiff was then instructed to work at New York Meat, a meat wholesale company, first as a delivery person, and then as a sales and customer care employee. Plaintiff was paid a mix of hourly wages and a fixed weekly salary while working as little as 51 hours and as many as 101 hours per week on average. Plaintiff alleges he was not paid any overtime premium in excess of his regular hourly wage or his fixed weekly salary.

For the foregoing alleged violations of overtime wage violations, Plaintiff seeks to recover the unpaid overtime wages and liquidated damage therefor.

Plaintiff alleges he was also never provided with a wage notice and wage statements as required under section § 195 of the NYLL, and further seeks to recover the maximum \$5,000 statutory violations for each, totaling \$10,000. In addition, Plaintiff also seeks to recover the prejudgment interest and attorneys' fees as permitted under the FLSA and the NYLL. As a preliminary assessment, Plaintiff estimates he is owed damages in an amount not less than \$100,000, excluding prejudgment interest and attorneys' fees.

In defense, Defendants deny all the substantive allegations in the Complaint, including that that they acted as joint employers or caused Plaintiff to work at the Defendants' respective locations. Defendants further deny that Plaintiff was not fully paid for all hours he worked and deny that they violated the FLSA or NYLL. Defendants deny that Plaintiff is owed any damages whatsoever.

2. Bases for Jurisdiction and Venue

The state of incorporation and principal place of business of each of the corporate defendant is as follows:

- New York Meat, Inc.
 - o State of Incorporation: Queens, New York
 - o Principal Place of Business: 355 Food Center Drive, #A19
Bronx, New York 10474
- Han Kook Meat, Inc. (Inactive)
 - o State of Incorporation: Queens, New York
 - o Principal Place of Business: 220-34 Northern Boulevard
Bayside, New York 11361
- NYM Prime Market, Inc.
 - o State of Incorporation: Queens, New York
 - o Principal Place of Business: 171-02 Northern Boulevard
Flushing, New York 11358
- Reception House New York, Inc.
 - o State of Incorporation: Queens, New York
 - o Principal Place of Business: 167-17 Northern Boulevard
Flushing, New York 11358

Both Plaintiff and the individual Defendant, Jong Hwan No, are residents of the State of New York.

This Court has federal question subject matter jurisdiction over the Plaintiff's claims based on the FLSA and supplemental jurisdiction over Plaintiff's claims based on the NYLL, as the alleged claims under the NYLL are substantially similar to those brought under the FLSA. This Court has personal jurisdiction over all parties as all parties are residents of New York.

The venue is properly laid in this district because a substantial portion of the alleged violation of the relevant employment laws took place at defendant New York Meat, Inc.'s business premises in Bronx, New York.

3. Contemplated and/or Outstanding Motions

There are currently no outstanding motions. The parties do not anticipate any motions, except as may be necessary to resolve the parties' discovery disputes, which the parties will endeavor to resolve amongst themselves.

4. Discovery Status

The parties have not exchanged any documents to date, but anticipate exchanging, for settlement purposes, certain records of Plaintiff's work hours and wages, plus other documents such as E-ZPass records to ascertain Plaintiff's work hours.

5. Settlement Discussion

After Plaintiff delivered his damages calculation sheet, the parties, with their respective counsel, have met for a one-hour session of settlement conference but was unsuccessful in reaching a settlement. Nevertheless, the parties believe they may benefit from the Court's mediation program, to which this case has already been referred.

6. Estimated Length of Trial

The parties estimate the trial would take approximately 2 days.

We thank the Court for its time and attention in this matter.

Respectfully submitted,

/s/ Sean S. Kwak

Sean S. Kwak

Cc: Defense counsel – Scott Hur, Esq.